

# HOUSE BILL REPORT

## HB 2826

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**As Reported by House Committee On:**  
Finance

**Title:** An act relating to taxation of products from vending machines.

**Brief Description:** Revising provisions for taxation of products from vending machines.

**Sponsors:** Representative Morris.

**Brief History:**

**Committee Activity:**

Finance: 2/3/04, 2/5/04 [DPS].

**Brief Summary of Substitute Bill**

- Provides a formula for vending machine operators to allow calculation of sales tax based on a portion of vending machine gross receipts.
- Updates outdated statutory references regarding vending machines.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives McIntire, Chair; Hunter, Vice Chair; Cairnes, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Ahern, Conway, Morris, Roach and Santos.

**Staff:** Mark Matteson (786-7145).

**Background:**

The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. The tax is levied at a 6.5 percent rate by the state. Cities and counties may levy a local tax at a rate up to a maximum of 3.4 percent currently, local rates levied range from 0.5 percent to 2.4 percent. Sales tax is paid by the purchaser and collected by the seller.

The use tax is imposed on items used in the state that were not subject to the retail sales tax, and includes purchases made in other states and purchases from sellers who do not collect Washington sales tax. The state and local rates are the same as those imposed under the retail sales tax. Use tax is paid directly to the Department of Revenue (Department).

An exemption from the retail sales and use taxes is provided for food and food ingredients for human consumption, generally. This includes, in general, substances which are ingested or chewed for nutritional value or for taste. However, excluded from the exemption are dietary supplements, soft drinks, and prepared foods sold in a heated state.

Vending machine sales of food products for human consumption are also taxable, but under separate provisions. If the vending product is a heated prepared food, retail sales tax applies to the full sales price of the item. For other vending food items, the retail sales tax applies to 57 percent of the gross revenues derived from the sale of the food product. For vending machine sales, the requirements that the seller collect the tax from the buyer, and that the amount of tax be itemized separately, is waived.

In addition to the sale of food products via vending machines, the Department is authorized to allow certain sellers to pay retail sales tax in a different manner than under conventional circumstances. One such circumstance is where coins are inserted into a receptacle (such as a gum ball machine) and single purchases are of smaller value than would allow for the legitimate collection of one cent tax. In such cases, the selling price of the vending product for tax purposes is deemed to be 60 percent of gross receipts.

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**Summary of Substitute Bill:**

A formula is provided to allow vending machine operators to determine the amount of sales tax to remit to the Department. The sales tax is equal to 57 percent of the gross receipts taken in, divided by a number equal to one plus the sum of the effective sales tax rates imposed under the state and local sales tax laws.

Under the authorization to allow the Department to allow sellers to pay sales tax in a different manner than under conventional circumstances, the reference to coin receptacles is updated to refer to vending machines. Vending machines are defined to mean a machine or other mechanical device that accepts any sort of payment and then provides property or services.

**Substitute Bill Compared to Original Bill:**

Provides an explicit formula for the calculation of sales tax owed on vending machine sales.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** This bill is just intended to provide some fixes that were needed as a result of sales tax streamlining. The change in the formula is just needed to conform to how the Department of Revenue has instructed taxpayers.

Twenty years ago, the Department came up with a formula for the application of sales tax to vending sales, based on an estimate of how much of the sales were in proximity to eating establishments or facilities. However, we recently realized that the manner in which taxpayers have been allowed to remit tax all these years is inconsistent with the formula in statute, and so would like to have that fixed. The other changes reflect necessary changes so as to conform to provisions adopted under the Simplified Sales and Use Tax Act last year.

This bill is a little different than the one we've supported in the past. The Department brought it to us in the fall and indicated, that without a technical fix, we would have to pay more tax than we've been instructed to pay in the past.

**Testimony Against:** None.

**Persons Testifying:** (In support) Representative Morris, prime sponsor; Brad Boswell, Northwest Automatic Vending Association; and Julie Sexton, Department of Revenue.

**Persons Signed In To Testify But Not Testifying:** None.